

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

RODOLFO GARCIA, 1634955,

Plaintiff,

v.

TDCJ BOYD UNIT,

Defendant.

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Civil Action No. **3:13-CV-987-L**

ORDER

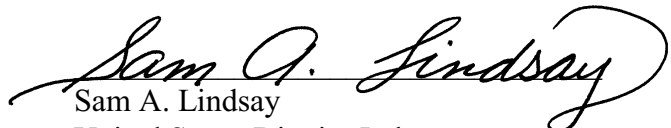
Plaintiff Rodolfo Garcia (“Garcia” or “Plaintiff”) brought this action under 42 U.S.C. § 1983 on March 6, 2013. The case was referred to Magistrate Judge Paul D. Stickney, who entered the Findings, Conclusions and Recommendation of the United States Magistrate Judge (“Report”) on July 3, 2013, recommending that Garcia’s section 1983 claims be dismissed without prejudice pursuant to Federal Rule of Civil Procedure 41(b) for failure to prosecute. On July 17, 2013, the court received objections to the Report filed by Garcia, who requests an additional 30 days to file an *in forma pauperis* (“IFP”) motion and information regarding his inmate trust account. Garcia also filed a motion for a temporary restraining order (“TRO”).

The magistrate judge entered a Notice of Deficiency and Order on March 18, 2013, directing Garcia to pay the requisite filing fee or motion to proceed IFP within 30 days and warned that failure to do so would result in the case be dismissed for failure to prosecute. On April 29, 2013, the magistrate judge granted Garcia’s request for an additional 45 days. As a result, Garcia has had over four months since filing this case to pay the requisite filing fee or file a motion to proceed IFP. In his first motion for an extension, Garcia indicated that he needed additional time because he was

attempting to work things out with Defendant. Now, he states that he was unable to meet the extended deadline because he has experienced unspecified “medical issues.” Pl.’s Obj. 1. Such unsupported conclusory statements are insufficient to warrant further extension. Moreover, Plaintiff fails to set forth the reasons why he has been able to file a motion for extension, objections to the Report, and a request for a TRO in the past four months despite medical and other issues but has been allegedly unable to pay the requisite filing fee or file a motion to proceed IFP. The court has been generous in extending Plaintiff’s deadline to pay the requisite filing fee or file a motion to proceed IFP and determines that no further extensions are warranted and would only serve to unnecessarily delay the proceedings in this case.

Having reviewed the pleadings, objections, file, and record in this case, and the findings and conclusions of the magistrate judge, the court determines that the findings and conclusions of the magistrate judge are correct and **accepts** them as those of the court. Accordingly, the court **overrules** Plaintiff’s objections and **dismisses without prejudice** his section 1983 claims and this action pursuant to Federal Rule of Civil Procedure 41(b) for failure to prosecute.

It is so ordered this 22nd day of July, 2013.


Sam A. Lindsay
United States District Judge